

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on March 30, 1999 at 7:00 A.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Chuck Swysgood, Chairman (R)
Sen. Tom Keating, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. William Crismore (R)
Sen. Eve Franklin (D)
Sen. Greg Jergeson (D)
Sen. Bob Keenan (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Mesaros (R)
Sen. Ken Miller (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Shannon Gleason, Committee Secretary
Clayton Schenck, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 180, HB 645, HB 607, HB 433, 3/28/1999
Executive Action: HB 180 AND HB 645

HEARING ON HB 180

Sponsor: REP. LOREN SOFT, HHD 12, BILLINGS

Proponents: Chuck Hunter, Department of Public Health and
Human Services (DPHHS)

Opponents: None

Opening Statement by Sponsor:

CHAIRMAN SWYSGOOD advised the committee this bill had a full hearing in another committee and the purpose of the referral to Finance and Claims is to review the Fiscal Note.

REP. SOFT advised this bill dealt with subsidized guardianship for Foster Children. In the Judiciary Committee the bill was amended to strike the jury trial for parental rights. The jury trial portion was what caused the fiscal impact. REP. SOFT stated the bill allows for children in Foster Care to be placed in a more permanent situation at a lower cost.

Proponents' Testimony:

Chuck Hunter, DPHHS, explained the bill was amended to include a jury trial. Mr. Hunter advised guardianship was not adoption, and the cost would be \$10.00 less per month than Foster Care.

Mr. Hunter advised the original fiscal impact was positive to the General Fund, and after the jury trial language was removed the fiscal impact would return to a positive \$35,000.00 to \$40,000.00 impact.

Questions from Committee Members and Responses:

SEN. KEATING asked if the section dealing with a jury trial was removed from the revised Fiscal Note, the wording would be correct. Mr. Hunter thought that was true.

CHAIRMAN SWYSGOOD stated that would leave a positive impact to the General Fund and wanted to know what the amount was. Mr. Hunter thought the impact would be \$35,000.00 to \$40,000.00 over the biennium. CHAIRMAN SWYSGOOD stated the impact would be positive because of the reduction of cost be month, Mr. Hunter concurred.

SEN. JERGESON asked if the amendments took out the impact on local governments. Mr. Hunter replied that was correct.

SEN. MAHLUM wanted to know how the savings was calculated. **Mr. Hunter** explained it was based on placing 120 children in permanent guardianship, but that could vary.

Closing by Sponsor:

REP. SOFT closed and passes out the original Fiscal Note **EXHIBIT (fcs71a01)**.

HEARING ON HB 607

Sponsor: **REP. LOREN SOFT, HD 12, BILLINGS**

Proponents: **Beda Lovitt,** Montana Medical Association (MMA)
Todd Thun, Montana Nurses Association
Tom Ebzery, Yellowstone Community Health Plan
Susan Witte, Blue Cross Blue Shield(BCBS)
Kip Smith, Montana Primary Care Association
Don Allen, Montana Medical Benefits Plan

Opponents: **Jacquiline Lenmark,** American Insurance Association

Opening Statement by Sponsor:

REP. SOFT advised this bill had also been through several committees and has been changed considerably from drafting. **REP. SOFT** felt there were four main issues he wanted this bill to cover: hold health care managed entities responsible for their decisions, an independent review process to review decisions made by the managed care provider, disallowing companies to transfer of liability for acts and omissions to the physicians liability insurance, and contracts should not be terminated with a physician prior to the termination date without just cause. **REP. SOFT** stated this was based on a model in Texas that appears to be working, although it has a short track record. **REP. SOFT** advised the portion that was most contentious was the liability for carriers and that had been amended out. The Governor had a concern on page three, Section two, and thought the wording should be changed from shall to must. There was no money appropriated, but the department would have to adopt rules and develop a list of providers for the independent review board, as there may be 10-15 cases per year to review. There would be no other expenses to the department.

Proponents' Testimony:

Beda Lovitt, MMA, advised the peer review process in Texas had reviewed 280 cases, with only one case being litigated. **Ms. Lovitt** stated the department would not be involved with the peer review process.

Todd Thun, Montana Nurses Association, rose in support of the bill and stated physicians and nurses are responsible for their actions, so should managed care entities.

Tom Ebzery, Yellowstone Community Health Plan, originally opposed the bill due to the section that has been removed. **Mr. Ebzery** now supported the bill, and pointed out there was an exclusion including the Medicaid Gold choice. There were questions how it would apply if some were exempt, and some not. **Mr. Ebzery** wanted the committee to review the fiscal impact of that. **Mr. Ebzery** noted the language did not comply with the definition on page four, line nine and ten, and offered a conceptual amendment to correct this **EXHIBIT(fcs71a02)**.

Susan Witte, BCBS, rose in support of the bill as amended, and listed other agencies that supported the bill. **Ms. Witte** hoped the language would be closer to the insurance code, supported the peer review system, and had the same concerns as **Mr. Ebzery** with the language. **{Tape : 1; Side : A; Approx. Time Counter : 7:25}**

Kip Smith, MPCA, advised they supported the bill reluctantly after the amendments. They felt the deleted section enforced the law. **Mr. Smith** was concerned with the exemptions in the Medicaid section.

Don Allen, Montana Medical Benefit Plan, rose in support of the bill as amended.

Opponents' Testimony:

Jacquiline Lenmark, American Insurance Association, advised they concurred in all the proponents comments, but companies providing casualty insurance were concerned with a portion of the bill. There were no limitations for the managed care companies that provide workers compensation insurance. **Ms. Lenmark** feels the fiscal impact to the State Fund is not addressed and she felt the cost would be significant to the companies carrying workers compensation.

Questions from Committee Members and Responses:

CHAIRMAN SWYSGOOD advised the committee he sent a letter to the department asking how this bill will effect the mental health contacts. He wanted to know why Medicaid and the state was exempt. **Nancy Ellery**, Department of Public Health and Human Services, advised the state and Medicaid was exempt because of the extensive review process already in place.

CHAIRMAN SWYSGOOD asked if there was currently review for other private contractors. **Ms. Ellery** advised the department already has a review process for some insurers, but not all.

CHAIRMAN SWYSGOOD commented since there is already a system in place to review disputes and rules that applied there should be no additional cost to the department. **Ms. Ellery** advised the department is exempt from the review, however there are private HMO's that require review and rules were drafted for them.

CHAIRMAN SWYSGOOD asked if the department could absorb the job of drafting the rules. **Ms. Ellery** advised they could not, and explained last session a bill was passed that required the department to extensively review and manage all HMO's. The department was given no resources to do the job, and they are still behind in the implementation. **CHAIRMAN SWYSGOOD** disagreed.

Closing by Sponsor:

REP. SOFT thought the bill had have extensive hearing and there was good support for the bill. **REP. SOFT** noted Congress is considering a similar measure. {Tape : 1; Side : A; Approx. Time Counter : 7:40}

HEARING ON HB 433

Sponsor: REP. CARLEY TUSS, HD 46, BLACK EAGLE

Proponents: Jane Jelinski, Montana Association of Counties

Opponents: None

Opening Statement by Sponsor:

REP. TUSS handed out **EXHIBIT(fcs71a03)** and **EXHIBIT(fcs71a04)**.

REP. TUSS stated the purpose of the bill was to remove the 1 and 1/2% mill levy five counties pay that have Colleges of Technologies (COT). **REP. TUSS** noted the letter from **Greg**

Petesch, exhibit 4, and stated the taxes are not accessed to all counties.

Proponents' Testimony:

Jane Jelenski, MACo rose in support of the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. FRANKLIN wanted to know who the proponents to the bill in the House were. **REP. TUSS** listed MACo, League of Cities and Towns, and added Commissioner of Higher Education, **Dick Crofts**, was present but did not speak for or against the bill.

SEN. TOEWS thought there were significant benefits to the counties paying the mill levy. **REP. TUSS** stated that was true, however those colleges are now merged with the University System and the other counties with Universities were not paying the extra mill. Five counties were paying extra money to the General Fund, and that was not fair. Other counties used the facilities, so there was a benefit to the entire state.

SEN. MAHLUM asked why the community colleges did not want to be included. **REP. TUSS** advised the community colleges do not want to be included. They do not belong to the university system and no not want to become part of it. **REP. TUSS** stated the community colleges had to option to charge higher fees to non county residence students. {Tape : 1; Side : B; Approx. Time Counter : 7:48}

SEN. LYNCH felt it was important to point out the local people involved with the **COT's** have no control over the administration of the schools.

SEN. KEATING asked about replacing the money from the General Fund, and wanted to know where the state gets the money for the General Fund. **REP. TUSS** advised the money comes from taxes and those dollars are levied equally across the state. **SEN. KEATING** thought there should be a state mill levy to support the colleges instead of the General Fund. **REP. TUSS** agreed, but the immediate issue was fairness to the counties. **REP. TUSS** commented if there was a 1.75 mill levy statewide it would adequately fund the system. but Legislators were unwilling to go to the people for support.

SEN. BECK referred to the 45 mills levied in Dawson County, and asked if this bill would give them a break. **REP TUSS** advised it would not because the mill was not levied in that county.

SEN. MOHL did not understand where the equity came into play. Counties with Junior Colleges were paying in excess of the mill. **REP. TUSS** stated it does sound strange, however it was not equitable and that was the point. **SEN. MOHL** advised the counties that were paying up to 45 mills now were going to pay even more money to give the five counties a break. **REP. TUSS** felt that was not true as the 1 and 1/2% mill was supporting the university system to a greater extent, as the mill goes into the General Fund.

SEN. LYNCH noted the directors in the **COT** have been reduced to department heads, and no longer has the stature of a person running a college.

CHAIRMAN SWYSGOOD thought there was a 2 mill levy that was defeated. **REP. TUSS** advised she was unaware of that. **SEN. JERGESON** advised there was a 2 mill levy that was voted down.

Closing by Sponsor:

REP. TUSS closed.

HEARING ON HB 645

Sponsor: **REP. JOHN COBB, HD 50, AUGUSTA**

Proponents: **Cathy Muri**, Department of Administration
Dave Lewis, Budget Office

Opponents: None

Opening Statement by Sponsor:

REP. COBB advised this was a clean up bill, and would require state agencies to stop borrowing from the General Fund. This would free up \$10,000,000.00 from the General Fund. Currently the Department of Public Health and Human Services borrow against the General Fund while waiting for the Federal Government to repay Medicare claims. This bill would required departments to borrow from the Board of Investments and pay interest from their budgets.

Proponents' Testimony:

Cathy Muir, Department of Administration read **EXHIBIT(fcs71a05)**.

Dave Lewis, Budget Office, stated he felt this was a good cash management bill. the Budget Office has had to hold back \$10,000,000.00 in the General Fund from reserve because state agencies have borrowed against the fund. **Mr. Lewis** advised there were other ways to secure the dollars, such as the Board of Investments.

Questions from Committee Members and Responses:

SEN. JERGESON pointed out the Fiscal Note showed there would be \$9,900,000.00 available, however the status sheet showed \$10,900,000.00, and he wanted to know what the difference was. **Mr. Lewis** advised it would free up \$10,900,000.00, but there would be a loss of \$1,000,000.00 in interest the agencies would have to pay.

SEN. KEATING wanted an example of an agency that borrowed money and paid interest. **Mr. Lewis** stated the **Department of Public Health and Human Services** had submitted claims for reimbursement to the Federal government for \$10,000,000.00. They were forced to borrow General Fund dollars to pay the bills associated with the services, while they were waiting for the Federal Government to repay the claims. **Mr. Lewis** advised they could borrow from the Coal Tax Fund and repay the loan with interest instead of tying up the General Fund Reserve.

SEN. KEATING asked if the General Fund money had been appropriated elsewhere. **Mr. Lewis** advised it had not. **SEN. KEATING** stated it was unencumbered money and wanted to know what difference it made. **Mr. Lewis** stated it was a problem when Certified Public Accountants's were figuring the balance.

SEN. KEATING stated this was an accounting issue. **Mr. Lewis** concurred. **SEN. KEATING** asked if by freeing up this money it would allow the money to be spent. **Mr. Lewis** advised it would help build the ending fund balance.

SEN. KEATING thought that the money could be used as a buffer to ensure the ending fund balance was not all spent, and the agencies then would not be charged unnecessary interest. **Mr. Lewis** advised as long as the fund balance was \$40,000,000.00 it would not be spent.

Closing by Sponsor:

REP. COBB thought this would force the department to collect the money in a more efficient time, and noted these loans were becoming long term.

CHAIRMAN SWYSGOOD advised the Department of Revenue had also borrowed against the General Fund last year to update their computer system.

EXECUTIVE ACTION ON HB 180

Motion/Vote: **SEN. KEATING** moved that **HB 180 BE CONCURRED IN.**
Motion carried unanimously.

SEN. MAHLUM requested to carry **HB 180.**

EXECUTIVE ACTION ON HB 645

Motion/Vote: **SEN. LYNCH** moved that **HB 645 BE CONCURRED IN.**
Motion carried unanimously.

CHAIRMAN SWYSGOOD advised he would carry this bill.

ADJOURNMENT

Adjournment: 8:15 A.M.

SEN. CHUCK SWYSGOOD, Chairman

SHANNON GLEASON, Secretary

CS/SG

EXHIBIT (fcs71aad)